

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOE FELDER, 02-A-0644,

Plaintiff,

10-CV-343(Sr)

v.

CORRECTION OFFICER DIEHL

and

CORRECTION OFFICER HUTTON,

Defendants.

DECISION AND ORDER

By Decision and Order entered May 25, 2010, the Court granted plaintiff permission to proceed *in forma pauperis* and directed the Clerk of the Court to cause the United States Marshals Service to serve the summons and complaint on the defendants. Dkt. #5. Plaintiff completed the necessary summonses and Marshals Service Return and Receipt of Service Forms, and summonses were issued on May 28, 2010. The summons and complaint and the Marshals Forms forwarded to Correction Officer Hutton were returned to the Marshals Service with a notation of "Return to Sender – No C.O. Hutton at Attica C.F." Dkt. #6.

The Court requests that the New York State Attorney General's Office ascertain a proper address for defendant Hutton pursuant to *Valentin v. Dinkins*, 121 F.3d 72 (2d. Cir. 1997) (per curiam). The Attorney General's Office need not undertake

to defend or indemnify Correction Officer Hutton at this juncture. This order merely provides a means by which the Marshals Service may properly serve Correction Officer Hutton as instructed by the Second Circuit in *Valentin*. The New York State Attorney General's Office is hereby requested to produce the information specified above to the undersigned by **September 10, 2010**.

Plaintiff is granted an additional 90 days to effect service of the summons and complaint upon defendant Hutton. See Fed.R.Civ.P. 4(m).

SO ORDERED.

DATED: Buffalo, New York
August 20, 2010

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge